

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-1627

ISMAIL MOHAMOUD ABDULLAHI,

Petitioner,

versus

JOHN ASHCROFT, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A79-479-740)

Submitted: November 8, 2004

Decided: November 22, 2004

Before WILLIAMS and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Robert Edward Wilhelm, LAW OFFICES OF JAMES A. ROBERTS, Falls Church, Virginia, for Petitioner. Peter D. Keisler, Assistant Attorney General, Margaret J. Perry, Senior Litigation Counsel, Jennifer L. Lightbody, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Ismail Mohamoud Abdullahi, a native and citizen of Somalia, petitions for review of the Board of Immigration Appeals' ("Board") order affirming the immigration judge's decision denying asylum, withholding of removal, and withholding under the Convention Against Torture. For the reasons discussed below, we deny the petition for review.

The decision to grant or deny asylum relief is conclusive "unless manifestly contrary to the law and an abuse of discretion." 8 U.S.C. § 1252(b)(4)(D) (2000). We have reviewed the immigration judge's decision and the administrative record. We are without jurisdiction to review the decision that the application for asylum was untimely. See 8 U.S.C. § 1158(a)(3) (2000); see also Castellano-Chacon v. INS, 341 F.3d 533, 544 (6th Cir. 2003); Tarrawally v. Ashcroft, 338 F.3d 180, 185-86 (3d Cir. 2003); Tsevegmid v. Ashcroft, 336 F.3d 1231, 1235 (10th Cir. 2003). We further find no due process violation as a result of the Board's affirmance under 8 C.F.R. § 1003.1(e)(5) (2004). In addition, Abdullahi failed to establish review was warranted by a three judge panel under 8 C.F.R. § 1003.1(e)(6). Finally, we find the denial of withholding from removal was supported by substantial evidence.* INS v. Elias-Zacarias, 502 U.S. 478, 481 (1992).

*Abdullahi abandoned his challenge to the Board's denial of his application for withholding under the Convention Against Torture.

Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED